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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Summary

In the present report, submitted pursuant to Human Rights Council resolution 26/22, the Working Group focuses on how the Guiding Principles on Business and Human Rights need to be further embedded throughout United Nations programmes and processes in order to improve policy coherence for inclusive and sustainable development.

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Contents

		Paragraphs	*Page*
I.	Introduction	1–6	3
II.	Background and context: emerging convergence	7–14	3
III.	Integrating the Guiding Principles into United Nations work and processes with a "business interface": investment, trade and financial institutions	15–50	6
	A. Investment	18–35	6
	B. Trade agreements and trade-related issues	36–42	11
	C. Financial institutions	43–50	13
IV.	Sustainable development	51–78	15
	A. Post-2015 framework	54–68	16
	B. Beyond the post-2015 framework	69–78	19
V.	United Nations partnerships with the private sector	79–87	21
	A. Insufficient awareness of human rights responsibilities in the global business community	81–83	21
	B. Lack of capacity and understanding to grapple with the implications of the Guiding Principles	84–87	21
VI.	Conclusions and recommendations	88–91	23

I. Introduction

1. The year 2015 will be critical for setting out the course for a more just, more equitable and more sustainable future for all. As recognized in the emerging post-2015 sustainable development agenda, better protection of, and respect for, human rights in the economic sphere must be a central pillar of this endeavour.

2. Private sector financing and economic activities have helped lift millions out of poverty and contributed to the realization of human rights. However, governance gaps within and between countries have contributed to an environment in which business activities across a range of sectors and countries have undermined respect for human rights. Thus, the growing role of business enterprises in the age of globalization has brought into relief not only the need for more effective policies and regulation, but also the need to make business enterprises part of the solutions to today's global challenges.

3. The United Nations, which was set up to lead global efforts on human rights, development and peace and security, has a particular role to play in supporting global action and governance frameworks to address the way business operates and affects human rights and development. These issues all come together in the United Nations "Protect, Respect and Remedy" Framework (A/HRC/8/5) and the Guiding Principles on Business and Human Rights (A/HRC/17/31), endorsed by the Human Rights Council in 2011 as the authoritative global reference point on the respective roles, obligations and responsibilities of Governments and business enterprises for preventing and addressing adverse human rights impacts resulting from business activities.

4. The present report contains examples of the application of the Guiding Principles in ongoing work by the United Nations. It highlights further opportunities whereby United Nations entities and processes (including Member State-led) can contribute to scaled-up action on the Guiding Principles and to greater policy coherence between business- and development-oriented frameworks and human rights considerations. It follows on from reports of the Secretary-General calling for the business and human rights agenda and the Guiding Principles to be embedded throughout the United Nations system (A/HRC/21/21 and Corr.1 and A/HRC/26/20).

5. First briefly set out is the context of emerging convergence of current practice and initiatives around the framework set out in the Guiding Principles (sect. II). The importance of integrating the Guiding Principles into specific areas of United Nations work and processes is then discussed, focusing on the areas of trade, investment and financial institutions (sect. III), on efforts to promote sustainable development (sect. IV) and on United Nations partnerships with the private sector in support of United Nations goals (sect. V).

6. The report is not intended to cover the entire spectrum of relevant United Nations work and processes, nor provide a comprehensive mapping of current practice. Rather, it seeks to signal and raise awareness about the importance of the business and human rights perspective to development-related work of the United Nations and about ways in which the Guiding Principles can help address challenges of policy incoherence. Its ultimate objective is thus to make a contribution towards achieving socially sustainable development founded on respect for human rights for all.

II. Background and context: emerging convergence

7. Global standards and initiatives relating to business and human rights have started to converge around the Guiding Principles. The corporate responsibility to respect human

rights as set out in the Guiding Principles has been incorporated into key frameworks such as the Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises, the International Organization for Standardization (ISO standard 26000: 2010 on guidance on social responsibility of businesses and other organizations, the International Finance Corporation Sustainability Framework for its lending operations, the Global Reporting Initiative's Sustainability Reporting Guidelines (fourth generation (G4)), the Principles for Responsible Investment in Agriculture and Food Systems, approved by the Committee on World Food Security and into key United Nations frameworks for the private sector such as the Global Compact.

8. Regional organizations are following suit. The European Commission endorsed the Guiding Principles in its 2011 corporate social responsibility strategy and made a commitment to support their implementation, including by publishing guidance material and calling on European Union member States to develop national action plans.[1] The Council of Europe has also taken steps to promote the Guiding Principles, including a declaration by the Committee of Ministers in support of the Principles.[2] Among other developments, the Organization of American States passed a resolution in 2014 expressing commitment to promote the Guiding Principles and calling on its member States to apply them;[3] and the African Union supported the Working Group in holding a regional forum on business and human rights in Africa in 2014 and expressed its commitment to supporting the development of an African framework for implementation of the Guiding Principles.[4] Further, a baseline analysis carried out by the Association of Southeast Asian Nations Intergovernmental Commission on Human Rights on the nexus between business and human rights was published in November 2014, referring to the Guiding Principles as a key internationally recognized framework that should guide developments in the region.[5]

9. There is an emerging trend of more States taking steps to develop national action plans on business and human rights based on the Guiding Principles, often spurred by national human rights institutions and civil society entities.[6]

10. Surveys, such as those by the Working Group[7] and the Economist Intelligence Unit[8], and discussions at the annual Forum on Business and Human Rights[9] indicate that a

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[1] Available from http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/human-rights/.

[2] Available from www.coe.int/t/dghl/standardsetting/hrpolicy/Other_Committees/HR_and_Business/Default_en.asp.

[3] OAS General Assembly resolution 2840 (XLIV-O/14).

[4] See OHCHR press release (18 September 2014), "UN and AU commit to advance business and human rights agenda in Africa", available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15053.

[5] Available from business-humanrights.org/sites/default/files/documents/AICHRs_Thematic_Study_on_CSR_and_Human_Rights_in_ASEAN.pdf.

[6] See the Working Group's web page for State national action plans at www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx. See also http://business-humanrights.org/en/un-guiding-principles/implementation-tools-examples/implementation-by-governments/by-type-of-initiative/national-action-plans.

[7] Available from www.ohchr.org/EN/Issues/Business/Pages/ImplementationGP.aspx.

[8] Available from www.economistinsights.com/business-strategy/analysis/road-principles-practice.

[9] See e.g. the Working Group's report on identifying emerging approaches and lessons learned in corporate respect for human rights: reflections from discussions held at the 2014 Forum on Business and Human Rights (A/HRC/29/28/Add.3).

growing number of companies are becoming aware of, and taking steps to, implement the Guiding Principles in policies and company procedures.

11. Industry bodies such as the mining industry's International Council on Mining and Metals and the oil and gas sector's International Petroleum Industry Environmental Conservation Association have developed several tools[10] to help companies to implement the Guiding Principles. Corporate law firms and bar associations are also increasingly emphasizing that corporate practice not only needs to be in compliance with domestic legal requirements, but also aligned with international human rights standards, in particular the Guiding Principles.[11] In the area of finance, there is growing recognition among investors of the utility of the Guiding Principles as a framework for managing social risks in a business context.[12]

12. The Working Group has been actively supporting these efforts through its engagement with stakeholder groups. While it is encouraged by the many examples of progress, it also considers that most of the hard work of translating policy statements and commitments into action remains to be done. In particular, concerns about elusive progress in achieving access to remedy for victims of corporate-related human rights abuse must be heeded. Such concerns were an important factor behind the civil society campaign in support of the decision of the Human Rights Council to establish an open-ended intergovernmental working group with the mandate to draw up an internationally legally binding instrument on transnational corporations.

13. Recent efforts to map progress by both States and businesses in the form of the Business and Human Rights Resource Centre's "action platforms",[13] guidance on reporting[14] and initiatives aimed at ranking or benchmarking the practice of individual companies[15] all have potential for spurring the faster change needed.

14. Within the United Nation system, the Office of the High Commissioner for Human Rights (OHCHR) serves as a focal point for the business and human rights agenda. Equally, the International Labour Organization (ILO) has a central role in working with States, business enterprises and trade unions to promote and monitor the implementation of international labour standards that are part of the normative content of the Guiding Principles, together with other human rights standards. Beyond OHCHR and ILO, United Nations agencies, programmes and processes have supported the Guiding Principles, but on the whole have been slow in integrating them into key frameworks (see A/HRC/26/20,

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[10] Available from www.icmm.com/page/84154/our-work/projects/articles/business-and-human-rights and www.ipieca.org/topic/human-rights/resources.

[11] See the International Bar Association guidance for bar associations and business lawyers on the implementation of the Guiding Principles, at www.ibanet.org/Legal_Projects_Team/Business_and_Human_Rights_for_the_Legal_Profession.aspx. For development of human rights compliance policies among individual law firms, see www.ibanet.org/Article/Detail.aspx?ArticleUid=68762a20-bf17-4f85-8c4f-81e3bbe88c16.

[12] See for example a statement by investors with a total of USD 3.91 trillion under asset management, in support of a reporting framework developed by the Shift non-profit organization to assist companies in implementing the Guiding Principles, available from www.ungpreporting.org/early-adopters/investor-statement/.

[13] Available from business-humanrights.org/en/company-action-platform and business-humanrights.org/en/government-action-platform.

[14] Available from www.ungpreporting.org/.

[15] See "Rankings, Benchmarks, Reporting and More: Motivating Action on Business and Human Rights", available from www.huffingtonpost.com/amol-mehra/rankings-benchmarks-repor_b_6761934.html.

para. 81). The United Nations should use its unique status to drive further convergence on the Guiding Principles, and in doing so improve the policy coherence of governance frameworks aimed at managing adverse impacts of economic activity and supporting sustainable development.

III. Integrating the Guiding Principles into United Nations work and processes with a "business interface": investment, trade and financial institutions

15. As the Secretary-General urged in his synthesis report on the post-2015 sustainable development agenda, there is a need to remedy the policy incoherence between current modes of international governance in matters of trade, finance and investment on the one hand, and our norms and standards for labour, the environment, human rights, equality and sustainability on the other and to ensure investment policies that are in line with the Guiding Principles (see A/69/700, paras. 95 and 105).

16. Despite this recognition, uptake across the United Nations has been slow, with some notable exceptions. Tangible progress is needed to increase the momentum of convergence around the Guiding Principles in order to manage and address adverse human rights impacts linked to business activities. Concerns about the possible negative impacts on people and the environment of current investment, trade and financial practices are a regular feature of the global debate and a central premise of efforts to reform global governance.

17. With regard to action within the United Nations system, there are great potential dividends to be reaped from aligning efforts on investment, trade and financial institutions with the Guiding Principles. The United Nations system has great potential for affecting business practice, be it through facilitation of dialogue, be it through facilitation of dialogue, consensus-building, lesson sharing and capacity-building to encourage responsible business conduct, or through more direct involvement in shaping rules and governing frameworks

A. Investment

18. It is highlighted in the Guiding Principles that investment policies and frameworks must be consistent with international human rights standards. The primary responsibility for meeting this objective is held by States, which, as set out in Guiding Principle 9, should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts. The importance of due diligence and human rights impact assessments in the context of trade and investment agreements has also been consistently raised by other entities of the United Nations human rights system.[16]

19. The former Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises devoted a significant portion of his mandate to these questions, focusing in particular on: (a) State-investor contracts and the effect of "stabilization clauses" on the policy space of States to protect

[16] For example, the Special Rapporteur on the right to food developed guiding principles on human rights impact assessments of trade and investment agreements (A/HRC/19/59/Add.5). See also the statement by the Committee on Economic, Social and Cultural Rights entitled "Globalization and economic, social and cultural rights" (1998).

human rights; (b) the importance of greater transparency in international investment arbitration where human rights issues are at stake; and (c) how provisions in bilateral investment treaties may constrain States' ability to adopt legitimate policy reforms, including for human rights.[17] Since then, further initiatives have emerged, building on his work, as highlighted in the following sections.

1. Promoting responsible contracts

20. The work of the Special Representative highlighted State-investor contracts as a key area in which the Guiding Principles could add significant value. It led to the development of the principles for responsible contracts (A/HRC/17/31/Add.3).

21. The Working Group, together with the Office of the High Commissioner for Human Rights (OHCHR), is actively disseminating the principles for responsible contracts and the training developed by OHCHR on those principles,[18] as tools for government negotiators, parliamentarians, commercial negotiators and civil society to help ensure the integration of the management of human rights risks into the negotiation of State-investor contracts.

22. The principles for responsible contracts are increasingly being used to inform technical advice in the context of investment contract negotiations for better management of stakeholder-related risks. More work needs to be done to explore practices and promote further uptake. The Working Group would like to encourage relevant stakeholders to identify examples of how the principles have been applied and how they work in leveraging better practices. In particular, it calls for more work to be done, including on the technical details, by relevant parties such as law societies, law committees, business associations and groups of companies dealing with these issues, and negotiator communities such as the Association of International Petroleum Negotiators, as well as government experts.

2. Investment policy and global value chains

23. One of the principal global multi-stakeholder platforms for discussions on investment policies and practice is the United Nations Conference on Trade and Development (UNCTAD) World Investment Forum, which involves Governments, businesses, civil society and academic experts. At the World Investment Forum 2012, the investment policy framework for sustainable development was launched. It consists of a set of core principles for investment policymaking, guidelines for national investment policies, and guidance for policymakers on how to engage in the international investment policy regime. The framework refers to the Guiding Principles in the context of encouraging investors to comply with internationally recognized standards and to carry out corporate due diligence.[19]

24. To catalyse further discussion on how to integrate concern for human rights into investment policy, UNCTAD and OHCHR, together with the London School of Economics Investment and Human Rights Project, organized two panel discussions on investment and human rights at the 2014 World Investment Forum. The panels reflected on the integration of human rights into government investment policymaking and efforts by United Nations organizations to support such integration. An example is UNCTAD guidance to States on the investment policy framework for sustainable development and the opportunities it offers

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[17] A catalogue of some of this work is available from http://business-humanrights.org/en/special-representative/un-secretary-generals-special-representative-on-business-human-rights/materials-by-topic/investment.

[18] Available from www.ohchr.org/EN/Issues/Business/Pages/trainingmodules.aspx.

[19] http://unctad.org/en/PublicationsLibrary/diaepcb2012d5_en.pdf.

for integrating human rights considerations into national investment policies and regulations, and into international investment agreements. The framework has been used in practice by Governments to guide their efforts in reforming investment rules and by civil society as a benchmark to evaluate the impact of investment policies on sustainable development goals.

25. Another example is the role of the African Minerals Development Centre of the Economic Commission for Africa (ECA) in supporting implementation of the Africa Mining Vision and promoting policy developments aligned with human rights standards. It was highlighted in the discussions at the World Investment Forum that much more learning and work needed to be done to understand the connections between human rights and investment so that domestic policy and regulation, international investment instruments and dispute resolution mechanisms are both designed to, and trusted by the wider public to, foster the right outcomes for investors and for people.[20]

26. Another entry point is the work of UNCTAD on corporate social responsibility in global value chains.[21] It seeks to analyse policies on corporate social responsibility with a view to identifying best practices for maximizing the development impact of corporate activities, in particular by transnational corporations, for which the Guiding Principles provide a useful reference. Ongoing work includes a forthcoming paper on corporate social responsibility in export processing zones, which highlights the State duty to protect in relation to business activities in such zones.[22]

27. One platform with potential for contributing to further convergence around the Guiding Principles is the inter-agency round table on corporate social responsibility jointly organized by UNCTAD, ILO and OECD.[23] The round table is an event organized to provide an opportunity for international organizations to better collaborate and align their activities and give States a "one-stop shop" for discussing corporate social responsibility issues with relevant experts within international organizations. It could play an important role in promoting implementation of the Guiding Principles and policies and practices aligned with international human rights standards.

28. One cross-cutting aspect related to making progress on implementation of the Guiding Principles is the issue of corporate reporting on human rights commitments and due diligence in the context of corporate social responsibility. A recent framework developed to support corporate reporting on the Guiding Principles,[24] for example, presents opportunities for making progress. There is a general interest in ensuring access to information upon which market decisions can be based – including in the contexts of investment, lending, mergers and acquisitions, and trade. It would be only logical for such information to disclose how risks of harm to people are assessed and addressed. This point was also highlighted by a group of investors welcoming the above-mentioned reporting framework, which emphasized that meaningful disclosure of human rights performance

[20] See summary prepared by the London School of Economics Laboratory for Advanced Research on the Global Economy Investment and Human Rights Project, available from http://blogs.lse.ac.uk/investment-and-human-rights/portfolio-items/background-and-summary-investment-human-rights-relevance-and-integration-panel-discussions-2014-world-investment-forum/.

[21] Available from http://unctad.org/en/Pages/DIAE/Corporate-Social-Responsibility.aspx.

[22] For a summary of some the findings, see UNCTAD, World Investment Report 2013, chapt. IV, sect. D, 4.b.

[23] www.csrroundtable.org/about/.

[24] www.ungpreporting.org/.

could play a significant role in reducing a company's human rights risks, contributing to a company's competitive advantage and strengthening its long-term financial stability.[25]

3. International investment agreements and dispute settlements

29. Carrying forward discussions about reforming the international investment agreements regime, in February 2015 UNCTAD convened a range of stakeholders from the investment and development community to identify strategies and action points for a sustainable development friendly international investment framework and improved global investment governance.[26] The Guiding Principles can also serve as a useful reference for addressing some of the current failures of the international investment agreements regime, as they provide an agreed normative framework with benchmarks for assessing and informing government and corporate action to assess and address the adverse human rights impacts of business activities.

30. The world of international investment is both complex and fluid, and is characterized by a growing number of both international investment agreements and investor-State dispute settlement cases. At the end of 2014 there were 3,268 such international investment agreements and 608 known investor-State dispute settlement cases.[27] In particular, the increasing number of investor-State dispute settlement cases has prompted debate about the legitimacy of the system, especially where high-profile negotiations on international investment agreements have been the subject of public controversy. The expansion in the use and interpretation of provisions in international investment agreements to protect investors and subject disputes to binding international arbitration has in a number of cases enabled investors to sue Governments for policies and regulations introduced to pursue public interest goals, such as new labour standards and environmental protection. The consequence may be that the States implicated are unable to preserve adequate policy space to meet their human rights obligations.

31. Some of the fundamental questions relating to reform of the international investment agreements regime indicate the relevance of the Guiding Principles. For example, there is an increasing realization that the success of investments requires not only the management of social and environmental risks, but also of adverse impacts on people. However, there is still not much experience in reflecting human rights risks in international investment tools. Moreover, given that investment is intended to enable development, the question arises of how investment tools should be designed to bolster, rather than undermine, the ability of host States to protect human rights and realize development goals. Such perspectives and experiences should be brought to the table in discussions on reforming the regime. The Working Group also considers that there is a particular need for empirical research on the links between the way in which investment agreements and arbitration operate and the impact on enjoyment of human rights.

4. Transparency in investment arbitration

32. A significant opportunity for increasing transparency in the area of investor-State arbitration has arisen from work of the Working Group on Arbitration and Conciliation of the United Nations Commission on International Trade Law (UNCITRAL). The UNCITRAL Working Group started working on transparency in 2010, with a mandate that stressed the importance of ensuring transparency in investor-State dispute settlements

[25] www.ungpreporting.org/early-adopters/investor-statement/.

[26] http://unctad-worldinvestmentforum.org/followup-events/single-year-expert-meeting/.

[27] UNCTAD, International Investment Agreements Issues Note No. 1, February 2015.

(A/6317, para. 314). In a written submission in support of that mandate, a Member State observed that the lack of transparency in investor-State arbitration was contrary to the fundamental principles of good governance and human rights upon which the United Nations is founded (see A/CN.9/662, para. 20). That work has culminated in two major texts: (a) the rules on transparency in treaty-based investor-State arbitration, which came into effect on 1 April 2014; and (b) a convention on transparency[28] (the United Nations Convention on Transparency), which was finalized by the Commission in July 2014 and opened for signature on 17 March 2015. The Working Group on the issue of human rights and transnational corporations and other business enterprises welcomes these new transparency rules.

33. Both the Guiding Principles and the UNCITRAL work on transparency back procedural and legal transparency and take a practical approach to achieving that aim. The new UNCITRAL rules on transparency seek to address a regular concern with investor-State dispute settlement cases – namely that their typically confidential and non-participatory nature does not allow for involvement by affected stakeholders, or for an adequate balance between the need for States to ensure that they retain adequate policy and regulatory ability to protect human rights and provide investor protection, as clarified in Guiding Principle 9. With the new UNCITRAL rules and the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration, States have a practical means to promote good governance and respect for human rights with a broader policy framework that is aligned with the Guiding Principles.[29]

34. These rules, when they apply, provide a transparent procedural regime under which investment treaty arbitrations are conducted. They can be used in investor-State arbitrations initiated under UNCITRAL arbitration rules, as well as under other institutional arbitration rules or in ad hoc proceedings. States can now incorporate them into investment treaties concluded on or after 1 April 2014, but for the rules to apply to disputes arising under the more than 3,000 investment treaties concluded before that date, the States parties to a treaty, or disputing parties in an investor-State arbitration, would need to agree to apply the rules under that treaty or to that dispute. This highlights the importance of the Convention on Transparency, which provides an efficient, multilateral mechanism by which States can agree, subject to relevant reservations, to apply the rules to all arbitrations arising under their investment treaties concluded before 1 April 2014. The Working Group welcomes the rules and considers that an obvious step for States to remedy incoherence between current modes of investment with norms for good governance and human rights considerations, including those set out in the Guiding Principles, would be to sign and ratify the Convention.

35. The Working Group is pleased to have had the opportunity to engage with UNCITRAL, including at its forty-seventh session in July 2014, and to note that in the report of that session the Commission agreed that the UNCITRAL secretariat should monitor developments in the area of business and human rights, in cooperation with relevant bodies within the United Nations and beyond and inform the Commission about developments of relevance to UNCITRAL work (see A/69/17, para. 204).

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[28] A/CN.9/812 and www.uncitral.org/pdf/english/texts/arbitration/transparency-convention/Transparency-Convention-e.pdf. The Working Group chairperson was invited to speak at the March 2015 signing ceremony.

[29] http://blogs.lse.ac.uk/investment-and-human-rights/portfolio-items/transparency-in-investment-treaty-arbitration-and-the-un-guiding-principles-on-business-and-human-rights-the-new-uncitral-rules-and-convention-on-transparency/.

B. Trade agreements and trade-related issues

36. The debate on the links between trade and human rights, and in particular labour rights, is not new.[30] Yet, while the Guiding Principles have begun to inform some discussions in the area of investment regimes, the idea of translating the Guiding Principles to the area of multilateral trade frameworks, notably in the context of the World Trade Organization (WTO), remains underexplored.

1. World Trade Organization and international trade rules

37. The former Director General of WTO, Pascal Lamy, contributed to the debate during a panel discussion on the links between the global economic architecture and the business and human rights agenda at the 2014 annual Forum on Business and Human Rights. He argued that the current international system was failing in integrating human rights in the areas of trade and economic governance, and called for a more integrated and coherent approach. The "clustered" system whereby the Human Rights Council did not consider trade and finance issues in country reviews, and whereby the WTO did not look at human rights when doing country trade policy reviews, demonstrated the limits of the system. A specific example illustrating this gap was the continued challenge of getting WTO members to accept that ILO should have observer status at WTO sessions, a step that could contribute to greater coherence.[31] Mr. Lamy had, in his capacity as WTO Director General, pointed out that for trade to act as a positive vector for the reinforcement of human rights, a coordinated international effort was needed, and that a coherent approach that integrated trade and human rights policy goals should be developed.[32]

38. In the commentary to Guiding Principle 10, the need for greater policy coherence at the international level is stressed, including where States participate in multilateral institutions that deal with business-related issues, such as international trade and financial institutions. They should do so to meet legal obligations, as States retain their international human rights obligations when they participate in such institutions, but also for policy reasons, as collective action through multilateral institutions can help States level the playing field with regard to business respect for human rights. The Guiding Principles provide an authoritative global reference point for such efforts and could serve as the basis for building cumulative progress "that takes into account the respective roles and responsibilities of all relevant stakeholders".

2. Labour provisions in free trade agreements

39. A review by ILO and the International Institute for Labour Studies highlighted that, alongside the rapid increase in bilateral and regional free trade, there has also been a growing number of social and labour provisions included in such agreements: 58 in 2013, compared to only 4 in 1995.[33] This is a positive trend, which has had positive impacts on

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[30] See Institute for Human Rights and Business, *State of Play: Human Rights in the Political Economy of States: Avenues for Application*, p. 43.

[31] Recording of presentation available from http://webtv.un.org/meetings-events/human-rights-council/forum-on-business-and-human-rights/watch/strengthening-the-links-between-the-global-economic-architecture-and-the-business-and-human-rights-agenda-forum-on-business-and-human-rights-2014/3925401980001.

[32] WTO News, "Lamy calls for mindset change to align trade and human rights" (13 January 2010). Available at www.wto.org/english/news_e/sppl_e/sppl146_e.htm.

[33] ILO and the International Institute for Labour Studies, "Social dimensions of free trade agreements" Studies on growth with equity (2013), p. 5. Available from **Error! Hyperlink reference not valid.**

national labour standards and the enforcement of international standards.[14] However, it also poses challenges, in terms of the risk of confusion and diverging interpretation, and thereby of uniform application and protection.[15] While it is important to take the latter concern into account, there should nevertheless be scope for going further, beyond the current focus on labour provisions. It is pointed out in a research report on the "state of play" of the political economy of business and human rights that this is possible, as reflected in specific examples of existing trade agreements.[16] A cautious approach would thus be to couple the increased call for integration of human rights needs with international coordination and alignment around common tools and benchmarks.

3. Public procurement

40. A specific policy area with links to trade in which there has been considerable movement since the endorsement of the Guiding Principles is public procurement. It is noted in the commentary to Guiding Principle 6 that States conduct a variety of commercial transactions with business enterprises, not least through their procurement activities. One estimate puts the magnitude of public procurement at 15–25 per cent of the gross domestic product of OECD member States, and even higher in a number of countries in other regions.[17] As emphasized in the commentary to Guiding Principle 6, this provides States—individually and collectively—with unique opportunities to promote awareness of and respect for human rights in such transactions. Concerns that human rights requirements would be perceived as trade barriers and be at odds with competition and trade rules have been cited as a common obstacle to introducing such a consideration into public procurement procedures.However, in order to meet their duty to protect human rights and incentivize business respect for human rights in the context of procurement activities, competition considerations should not trump international human rights standards. Indeed, trade agreements on procurement make it clear that governments retain the authority to adopt measures that protect public morals, safety and order.

41. The impact of sustainable public procurement on responsible business conduct was the topic of the 2014 inter-agency round table on corporate social responsibility, at which the importance of standards set by ILO and the Guiding Principles was mentioned. It was affirmed that there was now near-universal consensus that sustainable procurement practice was fully compatible with free trade and an important part of public policy. Moreover, sustainable procurement was a concern for States in all regions and at different levels of economic development.[18]

42. As seen in the 2014 annual Forum on Business and Human Rights, there is increased interest in a number of jurisdictions in exploring ways to integrate human rights into public procurement.[19] However, specific measures are few. There are ongoing initiatives to

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[14] "Labour provisions in free trade agreements: fostering their consistency with the ILO standards system", background paper, Social dimensions of free trade agreements, available from http://www.ilo.org/wcmsp5/groups/public/---dgreports/---inst/documents/genericdocument/wcms_237940.pdf.

[15] Ibid.

[16] See Institute for Human Rights and Business, *State of Play* (see footnote 41), chap. 5.

[17] Ibid., p. 53.

[18] See www.csrroundtable.org/wp-content/uploads/2014/12/CSR-Roundtable-Sumary-revised-4.12.14.pdf.

[19] See for example the session overview of the 2014 UN Forum on Business and Human Rights, organized by the Working Group in collaboration with external partners, available from

address this gap, aimed at developing practical guidance and good practice models for public authorities to integrate human rights due diligence procedures and requirements when purchasing goods and services from the private sector.[40] As emphasized at the 2014 corporate social responsibility round table discussions, collaboration is essential to reach a critical scale. Members of the United Nations system can play a role in supporting developments towards more State action and aligning multilateral frameworks for public procurement with the Guiding Principles. Among the opportunities with potential for contributing to reaching greater scale, both UNCITRAL guidance for procurement and infrastructure projects and WTO discussions on government procurement could and should make reference to the Guiding Principles and take note of emerging tools and good practices.

C. Financial institutions

1. World Bank Group

43. In the financial sector, the World Bank and its private-sector lending arm, the International Finance Corporation, is another key player within the United Nations system for enabling alignment with the Guiding Principles. The Corporation has already incorporated elements of the Guiding Principles into its social and environmental sustainability framework, updated in 2012.[41] The current review of the World Bank's Environmental and Social Framework[42] offers a further opportunity for integrating key elements of the Guiding Principles to prevent and mitigate the risk of adverse human rights impacts related to the Bank's lending activities.

44. It was stressed in a joint open letter to the World Bank President by several special procedures mandate holders, including the Working Group,[43] that the Bank's safeguard standards should be premised on a recognition of the central importance of respecting and promoting human rights in order to respond to the challenges of the twenty-first century. Moreover, it was stated that, consistent with international law, with its own obligations and with those of its member States, the Bank should acknowledge the relevance of human rights in its overall programme objectives and incorporate human rights due diligence into its risk management policies. Similar recommendations have been made with respect to regional and national financial institutions.[44]

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www.ohchr.org/Documents/Issues/Business/ForumSession3/ParallelEvents/ICAR_DFI.pdf; and Institute for Human Rights and Business, *State of Play* (see footnote 41), chap. 6.

[40] See International Corporate Accountability Roundtable (ICAR) and the Danish Institute for Human Rights, International Learning Lab: Procurement and Human Rights (2015, forthcoming); ICAR, "Turning a blind eye? Respecting human rights in government purchasing" (2014), available from http://accountabilityroundtable.org/wp-content/uploads/2014/09/Procurement-Report-FINAL.pdf; Institute for Human Rights and Business, "Guiding Public Procurement: Protecting Rights by Purchasing Right", available from www.ihrb.org/our-work/guiding-public-procurement.html.

[41] Available from www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/ifc+sustainability/our+approach/risk+management/performance+standards/environmental+and+social+performance+standards+and+guidance+notes.

[42] Available from http://consultations.worldbank.org/consultation/review-and-update-world-bank-safeguard-policies.

[43] Available from www.ohchr.org/Documents/Issues/EPoverty/WorldBank.pdf.

[44] See for example the recommendation of the Independent Expert on the effects of foreign debt that Japan strengthen the accountability mechanisms and safeguard policies of JICA, NEXI and JBIC and

45. A failure to align the World Bank Framework with the Guiding Principles would mean that the World Bank risks falling behind standard-development that has taken place in the context of private finance. The most notable example is the Equator Principles,[45] a much-cited risk management framework adopted by a group of 79 of the world's major financial institutions covering as much as 70 per cent of international "project finance" in the so-called emerging markets. When they were revised in 2013, they were aligned with key elements of the pillar of the Guiding Principles on the corporate responsibility to respect. The Equator Principles have been instrumental in promoting convergence around common environmental and social standards in the global financial sector, and are increasingly used by public financial institutions, including multilateral development banks and export credit agencies.

46. Thus the alignment of the Framework with the Guiding Principles is not only critical for institutional coherence. A failure by the World Bank to go in the same direction as the International Finance Corporation and the Equator Principles could jeopardize the momentum noted above. Conversely, an updated Framework aligned with the Guiding Principles would constitute a significant contribution to reinforcing that momentum.

2. Financial system regulation

47. Another issue that merits wider attention is the links between international financial regulation and sustainable development. The United Nations Environment Programme (UNEP), through its inquiry into the design of a sustainable financial system,[46] explores how the rules that govern the financial system—(standards, metrics, incentives, regulations—and the roles and responsibilities of global and national financial institutions can help better mobilize capital for sustainable development. In order to do so, UNEP and the Institute for Human Rights and Business convened a meeting in December 2014 on the value of a human rights-focused examination of the rules of financial systems.[47] The meeting report[48] suggests that the Guiding Principles could be a useful framework for the UNEP inquiry, so that the focus is both on the State duty to protect, in line with States' international human rights obligations, and on the responsibility of business enterprises, including in the financial sector, to respect human rights.

48. These issues were further developed at a second meeting, in March 2015, which will inform a forthcoming working paper for the UNEP inquiry. Questions identified included exploring the different levels at which the financial sector has an impact on human rights; human rights due diligence with regard to financial products, other than project finance, such as derivatives and commodities trading, and the implications of human rights considerations for monetary policy.[49]

49. The Working Group considers that these are complex and difficult questions, on which it would be useful to shed further light with a view to achieving greater policy coherence at different levels of the patchwork of international, regional and domestic governance systems.

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align their safeguard policies with the Guiding Principles on Business and Human Rights (A/HRC/25/50/Add.2, para. 68 (h)).

[45] Available from www.equator-principles.com/index.php/about-ep/about-ep.

[46] See Inquiry website at www.unep.org/inquiry/.

[47] http://www.ihrb.org/news/human-rights-dimensions-of-a-green-and-inclusive-financial-system.html.

[48] Available from www.ihrb.org/pdf/2014-12-04-IHRB-UNEP-Inquiry-Meeting-Report.pdf.

[49] www.ihrb.org/news/human-rights-dimensions-green-and-inclusive-financial-system.html.

3. Sustainable stock exchanges

50. The Sustainable Stock Exchanges Initiative is yet another area of finance where explicit alignment with the Guiding Principles could add value. The Initiative, which is co-convened by the United Nations-supported Principles for Responsible Investment, UNCTAD, the UNEP Finance Initiative and the Global Compact, is a peer-to-peer learning platform for exploring how exchanges, in collaboration with investors, regulators and companies, can enhance corporate transparency—and ultimately performance—on environmental, social and corporate governance issues and encourage sustainable investment. The Guiding Principles could offer normative and operational guidance, for example on matters concerning portfolio investors (e.g. pension funds) and their human rights-related responsibilities in relation to investee companies, where the Guiding Principles provide benchmarks on standards for due diligence and corporate governance.

IV. Sustainable development

51. The growing role of business in economic and social development has underscored the need for stronger accountability systems in emerging development frameworks. Two main aspects are worth underlining. First, as part of their duty to protect, States must protect internationally recognized human rights, and the Guiding Principles provide an additional framework for States to ensure that businesses do not undermine development efforts.

52. Second, as part of their corporate responsibility to respect, businesses should avoid infringing human rights and address any adverse impact with which they are involved. In its statement to the United Nations Conference on Sustainable Development, the Working Group pointed out that business contribution to a socially sustainable and equitable development starts with respecting the rights of people affected by their activities—in simple terms, by avoiding infringing on the rights of others and addressing the adverse human rights impacts with which they are involved.[50] Importantly, in the development context, it is clarified in the Guiding Principles that, even though companies may undertake commitments to support and promote human rights, this cannot "offset" possible adverse impacts on rights elsewhere in their operations. Moreover, the corporate responsibility to respect human rights also implies that business should not undermine States' abilities to meet their own human rights obligations, including in their development efforts.

53. The ongoing efforts at the United Nations to establish the post-2015 sustainable development framework provide a major opportunity for better integration of the business and human rights perspective.

A. Post-2015 framework

1. Sustainable development goals

54. Making the private sector in the post-2015 development framework work for human rights has been identified as one of the foremost challenges for the global business and human rights agenda.[51]

55. The increasing acknowledgment of the role business can be playing with regard to driving economic growth and sustainable development has also been reflected in the

[50] Available from www.ohchr.org/Documents/HRBodies/SP/BNUNGuidingPrinciplesBusinessHR.pdf.

[51] See www.ihrb.org/top10/2015.html.

proposed sustainable development goals (A/68/970 and Corr.1) as well as in the synthesis report of the Secretary-General on the post-2015 framework (A/69/700). It is encouraging to note that the draft goals refer explicitly to human rights standards and agreements, and that they include a call to put people at the centre of sustainable development, for a world that is just, equitable and inclusive and that aims to benefit all without distinction of any kind such as age, sex, disability, culture, race, ethnicity, origin, migratory status, religion, economic or other status (see A/68/970 and Corr.1, sect. IV, para. 4). With respect to the role and impact of the private sector, the draft goals call for protection of labour rights and the promotion of safe and secure working environments for all workers, including migrant workers (target 8.8).

56. However, no reference is made in the draft goals to the Guiding Principles and the importance of ensuring protection and respect for all internationally recognized human rights in the context of business operations. Failure to include such a reference in the final goals and supporting documents would constitute a significant lost opportunity to ensure that the acknowledgment of the increased role of the private sector in driving sustainable development is also coupled with the necessary accountability for a greater role and impact.

57. While the need for greater policy and institutional coherence is acknowledged in the draft (targets 17.13-17.15), the wording on the need to achieve greater policy coherence across international frameworks relating to the business sector, ranging from investment to trade frameworks and programmes, should be strengthened in the final goals and efforts to implement them at the country level should be enhanced. Guiding Principles 9 and 10 could provide the necessary guidance with regard to setting a benchmark for greater policy coherence. It is not yet clear how the goals and, more specifically, the targets under each goal, will be adapted to the national level. In line with the outcome of the United Nations Conference on Sustainable Development, it is critical that efforts to tailor global targets to national circumstances be guided by the obligations of States and businesses under international human rights law, as embodied in the Guiding Principles.

58. A major gap is the lack of reference to accountability mechanisms with regard to the potential adverse impacts of business operations and the governance gaps created by globalization, which are a central premise of the Guiding Principles. Accountability should be at the heart of the process, and it should be acknowledged in the sustainable development goals that individuals need to have access to meaningful consultation, in order to voice concerns prior to business operations that may have an impact on their human rights, and to remedy mechanisms, both judicial and non-judicial, when abuses occur.

59. With regard to the accountability of businesses, in Guiding Principle 3 emphasis is placed on the role of corporate governance and the need to ensure that relevant laws and policies not only prohibit but require companies (and company officers such as board directors) to actively consider human rights risks.[52]

60. Another concern is the lack of references in draft sustainable development goal 17, on revitalizing partnerships, to the need to avoid adverse impacts in the context of public-private partnerships. Reiterating the State's duty to foster respect for human rights by businesses through adequate regulation and policies and the minimum expectation that businesses will contribute to the achievement of the sustainable development goals in a way that is consistent with their corporate responsibility to respect human rights, could ground the goal of effective partnerships more firmly in international standards.

[52] For an explanation of these links, see also www.ihrb.org/pdf/submissions/2015-01-12-IHRB-Submission-OECD-Corp-Gov-Principles.pdf.

61. While hundreds of public-private partnerships already exist, as pointed out by the Institute for Human Rights and Business , "we don't yet have solid evidence or even shared views on what good practice looks like and we are still in the early stages of developing effective tools for evaluating the impacts and results of such partnerships across the board".[53] Initiatives such as that pursued by the Institute[54] to assess and report on how partnerships with the private sector could be made more accountable and consistent with the Guiding Principles and international human rights standards in the post-2015 development context should be encouraged.

62. The sustainable development goals should also be strengthened in relation to the critical role of reporting on human rights in the context of sustainability reporting. In draft target 12.6 companies, especially large and transnational companies are encouraged to adopt sustainable practices and to integrate sustainability information into their reporting cycle. As set out in the Guiding Principles, accounting for how they address human rights impacts provides a key measure of transparency and accountability to individuals or groups who may be impacted and to other relevant stakeholders, including investors. Reporting on human rights impacts and measures in a meaningful way would thus be a significant contribution to enhancing sustainability reporting. Adding human rights considerations alongside the social and environmental is critical. If companies do not report on their potential or actual impacts on the rights of individuals, they could be missing critical social and environmental impacts as well. Thus, adding a reference to the Guiding Principles would contribute to aligning the goals with international standards by promoting meaningful disclosure by companies.[55]

63. The draft goals also address the role of public procurement, calling for public procurement practices that are sustainable, in accordance with national policies and priorities (target 12.7). Here too, the goals and their implementation at the national level should be in line with the Guiding Principles and include the clear expectation that States adopt practices that are not only sustainable but that explicitly integrate human rights considerations.

64. The goals are expected to be adopted in September 2015. The Working Group hopes that the Guiding Principles will be adequately reflected in the final commitments at the global and national levels. Much work remains to be done to solidify and translate the goals into action by States and businesses and to ensure that businesses will contribute to, not undermine, inclusive and sustainable development in the period beyond 2015. The Guiding

[53] www.ihrb.org/commentary/post-2015-agenda-private-sector-priorities.html.

[54] Ibid.

[55] A government-led initiative in this area, supported by UNEP and the Global Reporting Initiative, is the Group of Friends of Paragraph 47 following acknowledgement of the importance of corporate sustainability reporting in paragraph 47 of the outcome document of the United Nations Conference on Sustainable Development. The Guiding Principles are referenced in its frequently asked questions on corporate sustainability reporting, available from www.unep.org/resourceefficiency/Business/SustainableandResponsibleBusiness/CorporateSustainabilityReporting/GroupofFriendsofParagraph47/FAQsonCorporateSustainabilityReporting/tabid/106320/Default.aspx. Another initiative in this context involves the Global Reporting Initiative, the United Nations Global Compact and the World Business Council for Sustainable Development and aims to mobilize the private sector behind the sustainable development goals. It will produce a guide for businesses for assessing impacts and aligning strategies with the goals (https://www.unglobalcompact.org/news/1361-10-07-2014). It would be critical for guidance from such initiatives to emphasize the role of human rights reporting and alignment with ongoing initiatives and tools to support implementation of the Guiding Principles. The recent "UN Guiding Principles Reporting Framework" provides a useful tool.

Principles serve as a framework to guide efforts at the national level in this respect. The Working Group will also dedicate parts of the 2015 Forum on Business and Human Rights, in November, to engage key stakeholders in a dialogue on these issues.

2. Financing for sustainable development

65. The Guiding Principles should also be referred to in the context of the third International Conference on Financing for Development, to be held from 13 to 16 July 2015, which is expected to play a key role in the follow-up to the post-2015 agenda.

66. The zero draft of the outcome document of the above-mentioned conference includes a number of encouraging and important references to the promotion of more responsible business conduct in the overall context of financing for development, including the need for businesses to commit to and apply principles for socially and environmentally responsible investment and business activities; complementary national regulations, including for the protection of labour rights, and environmental and health standards; mandatory integrated reporting for large companies; "coherence checks" on the sustainable development goals by relevant international institutions, private rule-setting bodies and international and national development finance institutions, with a view to aligning their business practices with sustainable development objectives, inter alia through assessments of their impact on the enjoyment of human rights, including indigenous peoples' rights; and progress towards gender equality.

67. While all of these references are welcome contributions to a strengthened international governance framework, the outcome document should be more fully aligned with international standards referencing the Guiding Principles. It should reaffirm the clear benchmarks relating to the State duty to protect human rights in the context of business activities, the business responsibility to respect human rights and the need for affected individuals to have access to effective remedies. There should be scope for doing so, and a suggested policy idea in the "elements" paper for the conference, contained under the heading "strengthening the sustainable development impact of investment", is to implement the Guiding Principles on Business and Human Rights, core labour standards of the International Labour Organization and relevant environmental standards, with enforcement and accountability mechanisms.[56]

68. Further improvements could be made by adopting the considerations outlined above with regard to regulatory action and recommendations regarding corporate reporting.

B. Beyond the post-2015 framework

1. Role of the United Nations Development Programme

69. The United Nations Development Programme (UNDP) has a particularly important role among agencies in the United Nations system in supporting global efforts towards sustainable development, and can play a key role in scaling up action on the Guiding Principles. UNDP has supported implementation of the Guiding Principles in various ways. The Working Group encourages further efforts along at least two strategically important dimensions.

70. First, UNDP is uniquely placed to promote national action plans on business and human rights and support the relevant national authorities and national human rights institutions in initiating an open, inclusive process to develop action-oriented plans by

[56] www.un.org/esa/ffd/wp-content/uploads/2015/01/FFD_Elements-paper_drafting-session.pdf.

Governments to implement the Guiding Principles. This would be a contribution towards better managing the domestic business and human rights-related challenges and fostering dialogue and cooperation between stakeholder groups, including business and civil society. The Working Group's guidance for State national action plans[57] could provide a starting point, as could the emerging experiences of countries in different regions in taking steps towards such plans.[58] Among specific experiences, the role played by UNDP and OHCHR in supporting national action plan processes in Malaysia, Mozambique and the Philippines, with the involvement of the Government, national human rights commissions and civil society organizations, could provide important lessons.

71. Second, as a significant number of governance failures stem from conflict over natural resources where business actors are involved, there may be huge potential benefits from better engagement with the business sector. A key entry point in that regard is the UNDP Extractive Industries for Sustainable Development initiative, through which UNDP supports capacity-building for national governance of extractive industries, including by facilitating and convening dialogues on extraction with affected populations, especially indigenous peoples, the private sector and Governments. Grounding such engagement in the Guiding Principles would provide clarity on the roles and responsibilities of duty-bearers in line with international standards and clear benchmarks for expected action by States and businesses. Emerging tools and resources for companies[59] inter alia[60] provide specific practical guidance which, aligned with the Guiding Principles could help support such engagement.[61]

2. Promoting regional dialogue on the Guiding Principles

72. UNDP has also played an important role in the organization of the regional forums on business and human rights convened by the Working Group to engage stakeholders in various regions with a view to promoting implementation of the Guiding Principles in a manner that is better grounded in local realities: UNDP co-organized the Latin America and the Caribbean Regional Forum, held in Medellin, Colombia, from 28 to 30 August 2013, and supported the African Regional Forum, held in Addis Ababa from 16 to 18 September 2014.[62]

73. As highlighted in the report of the Secretary-General on the contribution of the United Nations system to the advancement of the business and human rights agenda, the Guiding Principles can also contribute to the activities of United Nations regional commissions focused on guidance, capacity-building and technical cooperation on

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[57] See footnote 8.

[58] Ibid.

[59] See for example http://shiftproject.org/sites/default/files/Shift_HRDDinhighriskcircumstances_Mar2015.pdf.

[60] See for example lessons from the "pillars in practice" project referenced in the Working Group's report on the First African Regional Forum on Business and Human Rights (A/HRC/29/28/Add.2).

[61] The paper "Promoting human rights, ensuring social inclusion and avoiding conflict in the extractive sector" prepared by IHRB for UNDP and the Government of Brazil for their joint dialogue on the Extractive Sector and Sustainable Development – Enhancing Public-Private Cooperation in the context of the Post-2015 Agenda", 3–5 December 2014, highlights the value added by the Guiding Principles in the context of preventing conflict in this sector.

[62] See www.ohchr.org/EN/Issues/Business/Forum/Pages/2013LACRegionalForumBusinessandHumanRights.aspx and www.ohchr.org/EN/Issues/Business/Forum/Pages/AfricaRegionalForum.aspx.

economic and social policy involving Member States and other stakeholders in the respective regions (see A/HRC/21/21 and Corr.1, para. 41).

74. A welcome contribution has been the support provided by the Economic Commission for Africa (ECA) in the organization of the above-mentioned African Regional Forum. During the Forum, ECA stated that the Guiding Principles provided a critical reference for a human rights-based approach to development, and that the pursuit of human rights was a social and economic necessity for inclusive and sustainable development and cohesive societies (see A/HRC/29/28/Add.2, para. 13). Other United Nations regional commissions could usefully play similar roles.

75. With regard to the integration of the Guiding Principles in regional development-related initiatives, the aforementioned contribution of ECA to the African Mining Vision through the African Minerals Development Centre provides a good example. The efforts to mainstream human rights and the Guiding Principles in the extractive sector through the design of national mineral policies are encouraging. Creating links with other efforts aimed at promoting development of national action plans on business and human rights could build further synergies and coherence.

3. Engaging small and medium-sized enterprises

76. While small and medium-sized enterprises make up the vast majority of the world's companies, they have been given considerably less attention in the global business and human rights debate, in spite of the fact that such enterprises could affect human rights in the same way as transnational corporations do and are less often subject to the same level of scrutiny.

77. The United Nations Industrial Development Organization (UNIDO) could play an important role in supporting outreach to small and medium-sized enterprises. A starting point would be to embed the Guiding Principles across its work, especially in the context of its corporate social responsibility programme (but not only).[63] The work of UNCTAD on global value chains provides yet another entry point. Existing tools and research could provide useful resources for aligning such support and engagement with the Guiding Principles.[64]

78. Another highly complex challenge, also relevant in the discussion on linking the development and business and human rights agenda, is to promote protection and respect for human rights in the informal sector. This was identified as a key issue in discussions at the African Regional Forum, one that needs to be discussed further among all stakeholders.

V. United Nations partnerships with the private sector

79. Some final observations relate to the important role of United Nations platforms for partnerships with private sector that already support the dissemination of the Guiding Principles.

80. The contributions of the Global Compact and the UNEP Finance Initiative are especially critical for addressing the strategic challenges set out below.

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[63] www.unido.org/csr.html.

[64] In particular the European Commission's guidance for SMEs on the Guiding Principles, "My business and human rights", which provides an introduction to the field in simple language. See also the IHRB State of Play report (see footnote 41).

A. Insufficient awareness of human rights responsibilities in the global business community

81. The majority of the world's enterprises have not heard about the Guiding Principles, which is one of the principal challenges to lasting progress. Through its global reach, with over 8,000 company members, a growing participant base and connections with local businesses through 85 local networks, the Global Compact is already making a laudable contribution to raising awareness of the Guiding Principles.[65] Sixty-four per cent of its participants have indicated that they are aware of the Guiding Principles,[66] which is a promising basis for achieving even greater awareness.

82. While smaller in size, the UNEP Finance Initiative is also strategically positioned to contribute to closing the awareness gap, given that among its some 230 members are some of the world's major financial institutions and given the potential catalytic role of the financial sector. One option could be to embed the Guiding Principles in all the activities of the Initiative rather than confining human rights to a subtopic under social issues. For example, as already mentioned there is a strong case for building on guidance on corporate human rights reporting aligned with the Guiding Principles, including in the context of finance.

83. The roles of both the Global Compact and the UNEP Finance Initiative in promoting the Guiding Principles could be further strengthened through improved coordinated action across relevant agencies and entities in the United Nations system to reinforce the awareness-raising efforts already undertaken by OHCHR and the Global Compact.

B. Lack of capacity and understanding to grapple with the implications of the Guiding Principles

84. A lack of capacity and understanding to grapple with the implications of the Guiding Principles is cited as one of the most common challenges and one reason why uptake of the Principles has not been quicker.[67] An important role of the Global Compact is to continue to collaborate with OHCHR to develop and disseminate guidance on how to implement the corporate responsibility to respect human rights in practice, both on general aspects and in relation to thematic issues.[68] Global Compact initiatives with other United Nations agencies on women's empowerment (with the United Nations Entity for Gender Equality and the Empowerment of Women), children's rights (with the United Nations Children's Fund) and indigenous peoples' rights have helped to raise the awareness of business as to how to

[65] Constructive ways for local networks to support uptake of the Guiding Principles include supporting national-level processes to develop national action plans and working with national human rights institutions. Seehttps://www.unglobalcompact.org/docs/issues_doc/human_rights/Resources/GCLN_National_Action_Plan_Guidance.pdf and https://www.unglobalcompact.org/resources/891.

[66] See United Nations Global Compact, Global corporate sustainability rep[illegible] (2013), available from **Error! Hyperlink reference not valid.**

[67] This is the case even among companies supportive of human rights. See for example www.economistinsights.com/business-strategy/analysis/road-principles-practice.

[68] The United Nations Global Compact tools and resources database provides a key portal with guidance for business, available from https://www.unglobalcompact.org/Issues/human_rights/Tools_and_Guidance_Materials.html. See also Summary document: some key business and human rights guidance materials and how to use them, available from https://www.unglobalcompact.org/resources/341.

respect and support the rights of these groups.[69] In addition to producing and promoting guidance on key elements of the Guiding Principles, the Global Compact has addressed issues such as the role companies can play in respecting the rights of the lesbian, gay, bisexual and transgender community, business efforts to support the rights of older persons and the role of business in addressing the adverse human rights impacts of climate change. It also undertakes training for business representatives at the local level through its local networks, at the global level through interactive online webinars and through capacity-building events at key business and human rights conferences, such as the annual Forum on Business and Human Rights and the African Regional Forum in 2014. With its potential for reaching a wide business audience globally, it would seem obvious that strengthened resources for the Global Compact specifically to promote the Guiding Principles could deliver significant progress.

85. The "UN Guiding Principles reporting framework" provides a useful reference to help businesses understand the practical implications of the corporate responsibility to respect human rights and for Global Compact participant companies to report on progress on the first six principles (covering human and labour rights).

86. The UNEP Finance Initiative also plays a critical role in enhancing understanding by business of human rights in the context of finance and in alignment with the Guiding Principles. Its guidance tool on human rights,[70] which is designed as an online signposting tool providing information on human rights risks for financial institutions, offers a platform for learning and sharing information. It should be regularly updated in order to reflect the rapid developments in this field and align with emerging tools and initiatives, such as the "UN Guiding Principles reporting framework". In addition, the Initiative works to better understand the current landscape of human rights expectations in the context of banking through an analysis of soft and hard law.[71] Both of these projects led by the Initiative contribute to clarifying the implications of the Guiding Principles for the financial sector. However, as is the case with the Global Compact's human rights work, fulfilling more of the potential impact of this work remains highly dependent on the availability of resources.

87. In addition, engagement with other partnership initiatives involving the United Nations to promote responsible business practices is vital. For example, initiatives such as the Principles for Responsible Investment, the Principles for Responsible Management Education and the Sustainable Stock Exchanges Initiative should be firmly aligned with the Guiding Principles across their activities and take into account relevant emerging tools and initiatives to further support wider uptake of the Guiding Principles.

VI. Conclusions and recommendations

88. **Since their endorsement in 2011, there has been progress in convergence around the Guiding Principles in policy and tool development among major stakeholder groups. However, gaps remain both in terms of translating policy commitments into better protection of human rights on the ground and policy coherence in relevant global governance frameworks. In particular, there is potential throughout the United Nations for more robust integration of the Guiding Principles. Examples of existing efforts as well as key opportunities to embed the Guiding**

[69] See www.weprinciples.org, www.childrenandbusiness.org and https://www.unglobalcompact.org/Issues/human_rights/indigenous_peoples_rights.html.

[70] Available from www.unepfi.org/humanrightstoolkit/.

[71] www.unepfi.org/work-streams/social-issues/.

Principles in United Nations work and processes have been highlighted in the present report. These opportunities to align with, and support implementation of, the Guiding Principles have potential for spurring uptake on a larger scale and contributing to greater overall coherence in global governance frameworks that directly or indirectly relate to the Guiding Principles. This would also be a significant contribution to a more accountable and inclusive post-2015 development framework. States and United Nations entities are thus encouraged to act on the opportunities highlighted in the present report.

89. Although the scope of the report does not enable the Working Group to examine other areas, such as peace and security and humanitarian action, where the Guiding Principles would be of similar relevance, these areas should also be subject to further analysis and engagement. Similarly, there is a need to better delineate roles, responsibilities and appropriate accountability systems for both States and business enterprises with regard to specific issues, such as water and sanitation, agricultural investment, supply chains and child and forced labour, tax avoidance, corruption and climate justice.

90. A major challenge is that of achieving policy coherence between States' conduct in multilateral institutions that deal with business- and development-related issues and their international human rights obligations. This is especially relevant in the context of State-driven processes at the United Nations, including the negotiations on the post-2015 development agenda. In Guiding Principle 10 the need is stressed for States to draw on the Guiding Principles to promote a shared understanding and advance international cooperation to promote respect by business for human rights and help States meet their duty to protect against human rights abuses by business enterprises.

91. The Human Rights Council, in its resolution 26/22, encouraged States to submit information on their national action plans and other relevant initiatives on business and human rights, with annual reports on the implementation of such commitments, and invited all relevant stakeholders to submit relevant information to the Working Group. The Working Group would like to receive such information from States and other stakeholders, including in relation to policy coherence. That information would inform discussions and lesson-sharing, including at the 2015 Forum on Business and Human Rights. The present report is part of the Working Group's effort to enhance cooperation and dialogue with certain key actors, as mandated by Council resolutions 17/4 and 26/22. In that regard, the Working Group would like to highlight its desire to pursue efforts towards more comprehensive and systematic data collection and analysis of progress and challenges, including in the areas emphasized in the report. It looks forward to pursuing a dialogue with relevant organizations, in order to contribute to more coherent approaches in global governance and ultimately to improve human rights outcomes at the global and national levels in support of sustainable development.